

**REMARKS-General**

1. The newly drafted independent claim 21 incorporates all structural limitations of the original claim 1 and includes further limitations previously brought forth in the disclosure. No new matter has been included. All new claims 21-33 are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

2. Examiner alleges that applicant of the instant invention has not disclosed structure to prevent the continuous sidewall of the pusher button from engaging the outer switch member. Applicant respectfully submits an ATTACHMENT to illustrate the structural relationships between the pusher button 35 and the safety arrangement 40. As shown in Attachment 1A, the pusher button 35 has a slot or a cut-out on a sidewall of the pusher button 35 such that the stopper 433 is allowed to extend from the switch member 431 into the lighter housing 21 through the slot or the cut-out, which is suggested in previous Office Action. Furthermore, as shown in Attachment 1B and Figure 8 of the original filed drawings, the stop post 41 and the guider latch 42 are formed on a sidewall of the pusher button 35 such that the stopper 433 is slid on the sidewall of pusher button 35 to move between the locked position and the unlocked position, as claimed in newly drafted independent 21. In other words, a person of average skill in the art is able to understand the structure of the pusher button 35 in order to incorporate with the safety arrangement 40.

**Response to Rejection of Claims 1-16 under 35USC112**

3. The applicant submits that the newly drafted claims 21 to 33 particularly point out and distinctly claim the subject matter of the instant invention, as pursuant to 35USC112.

**Response to Rejection of Claims 1-16 under 35USC103**

4. The Examiner rejected claims 1, 4, 5, 7, 9 and 13 over JP'030 patent in view of Fairbanks, claims 1-5, 7-11, 13 and 14 over Saito in view of Fairbanks, and claims 1-5 and 7-16 over Cirami in view of Fairbanks. However, these patents fail to suggest the instant invention including the following substantial features.

(i) A tubular lighter rod is extended from the lighter housing to form a utility lighter, wherein the lighter housing further has a safety slot communicating the internal cavity with an exterior of the lighter housing, as claimed in newly drafted claim 21. In other words, the safety arrangement is incorporated with a utility lighter having the tubular lighter rod extended from the lighter housing while the gas tube is extended from the gas-emitting nozzle to a top end portion of the lighter rod to form the ignition tip, but not the conventional disposable lighter. Therefore, the structure of the safety arrangement must be designed to fit the interior cavity of the lighter housing of the utility lighter.

(ii) A piezoelectric unit is supported in the internal cavity of the lighter housing for generating piezoelectricity, as claimed in newly drafted claim 21.

(iii) A stop post and a guider latch are spacedly formed on a wall of the pusher button that defines a guiding slot between the stop post and the guider latch on the wall of the pusher button, as claimed in newly drafted claim 21.

(iv) A locking member comprises a switching member slidably mounted on said lighter housing along the safety slot and a stopper, having a sliding cavity, extended from the switching member into the lighter housing to normally block up a downward movement of the pusher button, wherein the locking member is movably supported by the lighter housing and adapted for being switched between a locked position and an unlocked position, as claimed in newly drafted claim 21.

(v) At the locked position, the stopper is aligned with the stop post to block the downward movement of the stopper to block any downward compression of the movable part of the piezoelectric unit to prevent generating sparks, as claimed in newly drafted claim 21.

(vi) At the unlocked position, the stopper is moved out of alignment with the stop post at a position that the stop post is aligned with the sliding cavity and the stopper is aligned with said guiding slot to enable the pusher button to be moved downwardly to depress the movable part of the piezoelectric unit and generate sparks at the spark-generating tip to ignite the gaseous fuel emitted from the ignition tip, as claimed in newly drafted claim 21. In order to ignite the utility lighter, the user must use a thumb thereof to push the switching member along the safety slot to drive the stopper moving out of

alignment with the stop post. At the same time, the finger of the user must depress the pusher button to depress the movable part of the piezoelectric unit to generate sparks at the spark-generating tip. In other words, the user is able to grip the lighter housing that the thumb of the user reaches the switching member while the finger of the user reaches the pusher button. Therefore, a hand of an adult user should be big enough to easily perform the two continuous actions by two different fingers at the same time for igniting the utility lighter. However, a conventional lighter requires only one finger or thumb to perform two actions at the same time for ignition.

(vii) The sliding cavity is wider than a thickness of the stop post such that at the unlocked position, the stop post is slidably inserted into the sliding cavity when the pusher button is depressed for ignition, as claimed in newly drafted claim 22.

(viii) The stopper further has an additional sliding cavity spaced apart from the sliding cavity and having a width wider than a thickness of the guider latch, wherein when the locking member is in said unlocked position, the guider latch is aligned with the additional sliding cavity such that when the pusher button is depressed at the unlocked position for ignition, the stop post and the guider latch are slidably inserted into the two sliding cavities respectively, as claimed in newly drafted claim 23.

(ix) The guider latch has a tapered guiding end having a slanted surface which is inclined toward said stop post and is arranged to bias against a top side of said stopper at said locked position, as claimed in newly drafted claims 24 to 26.

(x) The stop post and the guider latch are integrally protruded from a bottom portion of the wall of the pusher button, as claimed in newly drafted claims 27 to 29.

(xi) The locking member further comprises a driver member connecting the switch member positioned outside the lighter housing to the stopper slidably supported inside the lighter housing via the safety slot, as claimed in newly drafted claims 30 to 33.

5. In the present case, there is no such suggestion. In any case, even combining JP '030, Saito, Cirami and Fairbanks would not provide the invention as claimed in the newly drafted claims 21 to 33.

6. Applicant believes that for all of the foregoing reasons, all of the claims are in condition for allowance and such action is respectfully requested.

### **Commercial Success**

7. Attached hereto is a Rule 132 Declaration by the applicant, John Jiin Chung Yang, of the present application and the president of a California company "C.T. Sunco, Inc."

8. John Jiin Chung Yang currently makes and sells lighter embodying the subject matter of the '087 application's claims 21-33. This lighter is sold under the trademark "Sunlite". Sales volume for the lighter by the end of year 2004 is over 650,000 pieces.

9. The applicant believes that, an important reason for the commercial success of the lighter is its superior safety characteristics, which has been expressed in claims 21-33 of the '087 application. According to the applicant's knowledge no other commercially available utility lighter has achieved such standout characteristics as mentioned above.

10. The Rule 132 Declaration sets forth in detail evidence of the commercial success, which is a lighter embodying claims 21-33 made and sold by applicant and his entity, C.T. Sunco, Inc., a licensee of the present application. Based on this evidence, it both rebuts the *prima facie* of obviousness and establishes an important secondary factor of non-obviousness, namely commercial success.

11. The applicant respectfully submits that the cancelled original claims 1-16 are rejected under 35USC103(a). In other words, neither identical prior art is cited nor generic claims of prior art read on the instant invention. Practically speaking, the instant invention as claimed in the newly drafted claims 21 to 33 contains structural features different to each of the cited arts. The instant invention is already successfully marketed in the United States. The volume of sale substantially proves that hundred and thousand of consumers satisfy with the structural features of the instant invention. Regardless of the structural features different from the cited arts is distinctive or obvious, if the instant invention fails to obtain a patent with claims for limited protection, everybody in this industry (including the applicants of the cited arts) can simply copy the structural features of the instant invention without the need of investing any research

and development cost but to compete with the applicant in lower product cost in the applicant's market. It is not only an unfair competition but also violates the spirit of encouraging invention and technology development of the patent law. Accordingly, a secondary factor of commercial success for non-obviousness is established and the Examiner is requested to reconsider and withdraw the obviousness rejection made against claims 21-33.

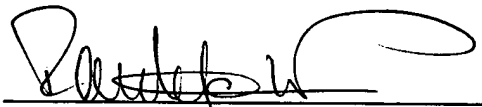
#### **The Cited but Non-Applied References**

12. The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

13. In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the rejection are requested. Allowance of claims 21 to 33 at an early date is solicited.

14. Should the Examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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**CERTIFICATE OF MAILING**

I hereby certify that this corresponding is being deposited with the United States Postal Service by First Class Mail, with sufficient postage, in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: December 10, 2004Signature: 

Person Signing: Raymond Y. Chan